IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1228 OF 2005

Ambalal R. Ahire & Anr. ..Petitioners.
Versus
The Union of India & Ors. ..Respondents.

Mr. R. G. Walia for the Petitioners.
Mr. Sureshkumar for Respondent No.5.

CORAM: DALVEER BHANDARI, C.J. &
S.J. VAZIFDAR, J.
DATE : 8TH AUGUST, 2005

P.C.

The Petitioner is aggrieved by the order dated 10th December, 2002 passed by the Central Administrative Tribunal, Mumbai Bench in O.A. No.40 of 2002. The Petitioner prays that the said order dated 10th December, 2002 be quashed and set aside.

2. The Petitioner has also prayed that the Respondents be directed to give benefit of the order dated 26th September, 2001 in O.A. No.360 of 1996 and the Petitioner be also sent for training prior to his promotion/absorption as Diesel/Electrical Assistant.

3. The Petitioner seeks to challenge the validity and legality of the impugned judgment on the ground that the Tribunal has

wrongly dismissed the Petition on the ground of limitation. The Petitioner is also aggrieved that he has not been sent for training for selection to the post of Diesel/Electrical Assistant as per the Apex Court's judgment. The Petitioner has referred to Writ Petition No.199 of 2004 which was allowed by this Court and by judgment dated 5th March, 2004 wherein the following order was passed :

> *"5. The learned counsel appearing for the petitioner submitted that the petitioner is a similarly placed employee and according to his information he has also succeeded in the said selection process and as such he is entitled to the said benefit granted to the applicants in the Original Application No.360 of 1996. The learned counsel further submitted that the respondents, due to their own oversight had not included names of passed candidates in the letter dated 14th September, 1994, and since other similarly situated candidates were granted the relief, the CAT ought to have condoned delay and extended the same benefit to the petitioner. The learned counsel relied upon the decisions of Supreme Court in K. C. Sharma and others Vs Union of India and others, reported in 1998 SCC (L&S) 226, and K. I. Shephard and others Vs Union of India and others, reported in AIR 1998 SC 686. On the other hand the learned counsel appearing for the respondents submitted that since there was delay of eight years in approaching the CAT, the CAT was right in dismissing the Original Application on the ground of limitation.*
>
> *6. Having considered the facts and*

circumstances, we are of the opinion that the CAT should have condoned the delay and the petitioner should have been given same benefit as already granted by the CAT in Original Application No.360 of 1996. Considering the fact that the petitioner is a Class IV employee and had been denied the promotion only due to the negligence of the respondents, we are of the opinion that the petitioner should be given same benefit which was extended to the employees who filed Original Application No.360 of 1996. accordingly rule is made absolute in terms of prayer clauses (a) and (b). Respondents are directed to comply with the order within a period of eight weeks."

4. The Petitioner prays that the case of the Petitioner is identical to that of the Applicant in Writ Petition No.199 of 2004.

5. We have heard the learned Counsel and perused the impugned order. In the facts and circumstances of the case, the impugned order passed by the Central Administrative Tribunal, Mumbai Bench in O. A. No.40 of 2002 dated 10th December, 2002 is set aside and the Respondents are directed to give benefit of the order dated 26th September, 2001 passed in O. A. No.360 of 1996 to the Petitioner.

6. It is further directed that the Petitioner be also sent for

training prior to his promotion/absorption as Diesel/Electrical Assistant. This, of course, would be subject to compliance of all other necessary formalities and conditions.

7. No further directions are necessary in this Petition. The Petition is disposed of accordingly.

CHIEF JUSTICE

S.J. VAZIFDAR, J.